

NEWSLETTER

September 7, 2006



Nevada Division of Environmental Protection Bureau of Air Pollution Control Bureau of Air Quality Planning

State Environmental Commission Approves New Air Quality Regulations

The Nevada Division of Environmental Protection (NDEP), Bureaus of Air Quality Planning and Air Pollution Control (BAQP/BAPC) petitioned the State Environmental Commission (SEC) to make several regulation changes at the hearing held on Wednesday, September 6, 2006. The SEC adopted the regulation changes to the Nevada Administrative Code (NAC) 445B.001-445B.3497 as proposed. There were public workshops held on all the proposed regulation changes throughout August that were attended by the public and industry.

New Permit Fee Structure Approved

NDEP revised the fee structure in NAC 445B.327 to make revenue generated by air pollution control permits commensurate with the expense of administering the program. The size and scope of the air quality program has increased significantly over the past 10 years due primarily to federal mandates, though the fees have not changed. The air pollution control program is prominently a fee based program that does not receive any state general fund revenue as support. In addition, the agency is anticipating a significant cut in federal grant funding beginning in Fiscal Year 2008 (FY-08). The fee structure increase was neces-

sary to pay the expenses of administering the program and the 2% annual adjustment factor was included to accommodate for inflation. The Class II annual emission fees were removed from the regulation because the revenue generated did not support the work required to collect those fees. Specifically, a Staff and Resource Allocation Study was conducted to determine where resource expenses were not compensated appropriately by the fee structure. The table provided on the last page of this newsletter outlines the necessary changes that were needed to better align fees with program demands.

Repeal to Portions of the 2002 NSR Reform

NDEP integrated federal revisions of the 2002 New Source Review and Prevention of Significant Deterioration (NSR Reform) rule into State regulation in 2004. In December of 2005, the U.S. Court of Appeals ruled that U.S. EPA had misinterpreted the Clean Air Act in Promulgating the "Clean Unit" (CU) and "Pollution Control Project" (PCP) provisions of the 2002 NSR Reform. The ruling meant that NDEP would have to remove those provisions from the regulations.

Specifically, removed were the application requirements for CUs and PCPs, processing timelines, permit content requirements for CUs and PCPs, and the fee structure that covered NDEP's administrative costs for permitting CUs and PCPs. The SEC agreed to remove those provisions from the NAC based on the federal court ruling. The removal of the provisions means there are no longer State or Federal provisions for a major stationary source to obtain an operating permit to construct for the approval of *Clean Units* or *Pollution Control Projects*.

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- **Update to the Nevada Applicable State Implementation Plan**
- **Clean Air Mercury Rule for Coal Fired Power Plants**
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Approval Granted to Update the Nevada Applicable State Implementation Plan



The Nevada Applicable State Implementation Plan (ASIP) was originally submitted to U.S. EPA in January 1972. The ASIP is the plan that defines the State's air pollution program and had not been substantially revised since the mid 1980's. The ASIP is being amended to align the plan with current State regulations and allow EPA to approve the ASIP update. The amendments did not overlap or duplicate any regulations of other state or government agencies and

are no more stringent than what is established by federal law. Some of the amendments to the ASIP clarify and stream line the permitting regulations; add expiration dates for Class II and Class III construction permits; and provide for updates to NAC 445B.221, which adopts federal rules by reference. The approval of the amendments to the ASIP will provide consistency between the ASIP and NAC.

New Mercury Reduction Program for Coal-Fired Power Plants

"The major objective of Nevada's CAMR Program is to encourage mercury reduction at existing facilities and to encourage new facilities to install LEU/IGCC units."

The U.S. EPA approved the Clean Air Mercury Rule (CAMR) on May 18, 2005. The rule set annual mercury budgets from electric utility steam generating units (EGU) for each affected state. Nevada will be allocated a mercury emission budget of 570 pounds per year for 2010 to 2017 (Phase I). In 2018 and thereafter (Phase II), the mercury emission budget drops to 224 pounds per year. The CAMR requires states to submit a State Plan for the implementation of the rule by November 17, 2006. Nevada developed a program unique to the needs of the state and one that complies with the federal CAMR requirements. The major objective of Nevada's CAMR Program is to encourage mercury reductions at existing facilities and encourage new facilities to install "Low Emitting Units" (LEU) or "Integrated Gasification Combined Cycle" (IGCC) units. The Nevada CAMR Program requires power plants with coal-fired EGU's to obtain a mercury operating permit to construct. The permitting process will allow NDEP to allocate annual mercury emissions to existing power plants based on projected actual emissions. The remaining Nevada mercury emission allowances will be maintained in a pool and used for new power plants and program support for air quality. Incentive emission allowances are offered as part of the program to encourage facilities to install equipment or systems that reduce emissions below their allocated limit. By October 1, 2006, existing sources will conduct studies to calculate estimated annual emission rates for con-

trol periods 2010 through 2012. The data from these studies will be used to allocate the initial allowances to existing units. There will be no mercury allowances allocated to a unit, which has permanently retired or to a unit with an air quality operating permit that has been allowed to expire. The Nevada CAMR Program will establish an *Existing Source Account* based on annual emission projections; a *New Unit Account* established for new units that have not established a 3 year emissions baseline; a *LEU/IGCC Account* for existing and new units based on emission rates which are lower than EPA's proposed New Source Performance Standards; and a *Special Account* held by the State with the flexibility to allocate allowances, auction allowances to support program needs, bank allowances or retire them. The Nevada CAMR Program will have economic impacts on the power generation industry. The CAMR operating permit to construct application fee will cost \$2,000 with an annual maintenance fee assessed for each coal-fired EGU. The fees collected will be used to support the program. In addition, affected facilities will be required to install and operate a continuous monitoring system for measuring mercury emissions. The NAC will be amended as necessary to facilitate implementation of the Nevada CAMR Program as described. Amendments will reflect program requirements including timelines, mercury budgets, and allowance allocations.



The Chemical Accident Prevention Program Adds Mercury to the Highly Hazardous Substance List

The SEC agreed to amend the Chemical Accident Prevention Program (CAPP) regulations NAC 459.9533 by adding mercury to the highly hazardous substance list. In the amendment, mercury will have a threshold of 200,000 pounds or 100 tons. The amendment establishes measures for the prevention of an accidental release to the environment from the storage and handling of mercury at storage facilities in Nevada. The new regulation will have an economic impact on facilities that handle or store mercury. The annual fee will be \$39.00 per unit of mercury. The

unit size of mercury is 100 tons. In addition, if the facility does not already pay an annual base fee of \$5,600 as established in NAC 459.9533 for the handling and storage of highly hazardous substances, they will be required to pay that fee too. The amendment to the CAPP regulations provides consistency with the overall efforts on controlling mercury releases throughout Nevada. The mining industry is exempt from the CAPP regulations.

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Resource List For Additional Information on Regulation Changes

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Fee Structure Changes

Permit Program	Permit Application Fee		Annual Maintenance Fee		Annual Emission Fee per Ton	
Class I Sources	Previous	New	Previous	New	Previous	New
Major Stationary Source <u>with</u> PSD Permit	\$50,000	NA	\$12,500	\$30,000	\$5.60	\$16.00
Major Stationary Source <u>without</u> PSD Permit	\$30,000	NA	\$12,500	\$25,000	\$5.60	\$16.00
Major Source <u>with</u> Title V Permit	\$30,000	NA	\$12,500	\$20,000	\$5.60	\$16.00
Major Source <u>with</u> Title V for Landfills Permit	\$30,000	NA	\$12,500	\$15,000	\$5.60	\$16.00
Class II Minor Sources	Previous	New	Previous	New	Previous	New
New PTE greater than or equal to 80 tpy but less than 100 tpy.	\$3,000	NA	NA	\$5,000	NA	\$0.00
PTE greater than or equal to 50 tpy but less than 80 tpy (use to be 100 tpy).	\$3,000	NA	\$3,000	\$3,000	\$5.60	\$0.00
PTE greater than or equal to 25 tpy but less than 50 tpy.	\$3,000	NA	\$1,000	\$1,000	\$5.60	\$0.00
PTE less than 25 tpy.	\$3,000	NA	\$ 250	\$ 500	\$5.60	\$0.00
Class II General Sources	Previous	New	Previous	New	Previous	New
	\$ 400	\$ 500	\$ 250	\$ 500	\$5.60	\$0.00
Class III Sources	Previous	New	Previous	New	Previous	New
	\$ 300	\$ 300	\$ 250	\$ 250	\$0.00	\$0.00
Surface Area Disturbance's	Previous	New	Previous	New	Previous	New
5 Acres or more (for all sources)	\$ 400	\$ 500	\$ 250	Varies see below	\$0.00	\$0.00
New Categories						
New 5 Acres-19.9 Acres				\$ 250		
New 20 Acres-49.9 Acres				\$ 500		
New 50 Acres-99.9 Acres				\$ 750		
New 100 Acres-199.9 Acres				\$1,000		
New 200 Acres-499.9 Acres				\$2,000		
New 500 Acres and more				\$5,000		

NA- Not Applicable

PTE- Potential to Emit

Major Source- as defined in NAC 445B.094

Major Stationary Source- as defined in 40 C.F.R. Part 52.21(b)(1)